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Filed : March 2, 2004

### REMARKS

By way of summary, Claims 1-31 were originally filed in the present application. Claims 1, 3, 6, 9, 22, and 31 have been amended, and new Claims 32-36 have been added. Accordingly, Claims 1-36 are pending.

Amendments to the specification and claims set forth above include markings to show the changes by way of the present amendment, deletions being in ~~strikeout~~ (e.g., ~~strikeout~~) and additions being underlined (e.g., underlined).

Claims 3 and 9 have been amended to put the claims in better form for examination. The claim amendments are not related to patentability.

#### Amendments to the Specification

Applicants have amended the specification to correct minor errors. Paragraphs [0071]-[0074] and [0077] have been amended to correct inconsistent use of some reference numerals. Applicants have amended "throttle body 182" to "throttle body 186." Applicants have amended "accumulator 184" to "accumulator 188." Applicants have amended "intake duct 186" to "intake duct 184." Applicants have amended "air cleaner unit 188" to "air cleaner unit 182." Applicants respectfully submit that no new matter is introduced by way of these amendments.

#### Claims 1-4, 6-12, 15-21, and 31 are allowable over Nakamura et al.

Original Claims 1-4, 6-12, 15-21, and 31 stand rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,695,083 issued to Nakamura et al. ("Nakamura"). Applicants respectfully disagree with the characterization of the reference set forth in the Office Action and with the rejection of original Claims 1-4, 6-12, 15-21, and 31. Nevertheless, to expedite the issuance of the other pending claims, Applicants have amended Claims 1, 6, and 31 to more clearly define the subject matter of these claims, which Nakamura fails to disclose. Applicants reserve the right to pursue at a later date claims similar to the original claims.

#### Claim 1

Amended Claim 1 recites:

An off-road vehicle comprising a frame, a plurality of wheels arranged to support the frame, an internal combustion engine powering at least one of the wheels, and *an air intake system arranged to supply air to the engine for*

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*combustion*, the air intake system having an air inlet through which ambient air enters the intake system, the air inlet positioned higher than an uppermost surface of the wheels, and an air intake duct extending rearward to the engine, at least a portion of the air intake duct being positioned lower than the uppermost surface of the wheels.

Nakamura does not disclose each and every limitation of Claim 1. In contrast to Claim 1, Nakamura discloses a cooling air system that delivers cooling air to a belt-type variable transmission, *not to an engine*. Col. 5, lines 61-65. Cooling air enters through a cooling air induction port 56 of the induction box 41 and into an inlet duct 44. The cooling air then flows through the inlet duct 44 and into the belt-type variable transmission 29. The cooling air cools various components of the belt-type variable transmission 29, such as a drive pulley and belt, and is then discharged. Col. 8, lines 22-26. Thus, the cooling air system of Nakamura does not deliver air to the engine for combustion.

Nakamura does not disclose all the limitations of amended Claim 1. Therefore, Applicants respectfully submit that Claim 1 is patentably distinguished over Nakamura. Dependant Claims 2-4 are patentably distinguished over Nakamura for at least the reasons with respect to Claim 1 as well as for novel and nonobvious features recited therein. Thus, Claims 1-4 are in condition for allowance.

Claim 6-12 and 15-21

Amended Claim 6 recites:

An off-road vehicle comprising a frame, a plurality of wheels arranged to support the frame, a hood configured to cover at least a first portion of the frame, an internal combustion engine powering at least one of the wheels, and *an air intake system arranged to supply air to the engine for combustion*, the air intake system comprising an air cleaner configured to clean the air, the air cleaner disposed below a central portion of the hood.

Nakamura does not disclose all the limitations of amended Claim 6. In contrast to Claim 6, Nakamura discloses a cooling air system that delivers cooling air to a belt-type variable transmission, *not to an engine*. Col. 5, lines 61-65. Therefore, Applicants respectfully submit that Claim 6 is patentably distinguished over Nakamura.

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Dependant Claims 7-12 and 15-21 are patentably distinguished over Nakamura for at least the reasons with respect to Claim 6 as well as for novel and nonobvious features recited therein. Thus, Claims 6-12 and 15-21 are in condition for allowance.

Claim 31

Amended Claim 31 recites:

An off-road vehicle comprising a frame, a plurality of wheels arranged to support the frame, at least one seat supported by the frame, an internal combustion engine powering at least one of the wheels, and *an air intake system arranged to supply air to the engine for combustion*, the air intake system comprising an air cleaner configured to filter the air, the seat being disposed in a fore to aft direction on the vehicle such that the air cleaner lies forward of the seat and at least a portion of the engine lies to the rear of the seat.

Nakamura does not disclose all the limitations of amended Claim 31. In contrast to Claim 31, Nakamura discloses a cooling air system that delivers cooling air to a belt-type variable transmission, *not to an engine*. Col. 5, lines 61-65. Therefore, Applicants respectfully submit that Claim 31 is patentably distinguished over Nakamura.

**Cited References Do Not Render Claims 5, 13, 14, and 22-30 Obvious**

Claims 5, 13, 14, and 22-30 stand rejected under 35 U.S.C. § 103 as unpatentable over Nakamura in view of U.S. Patent No. 6,582,004 issued to Hamm. In view of the following, Applicants respectfully submit that the claims are in condition for allowance.

Amended Claim 22 recites:

An off-road vehicle comprising a frame, a plurality of wheels arranged to support the frame, at least two seat assemblies disposed side by side on the frame, an internal combustion engine powering at least one of the wheels, and *an air intake system arranged to supply air to the engine for combustion*, the air intake system comprising an air cleaner configured to clean the air, *at least a portion of the air cleaner is positioned between the seat assemblies*.

Nakamura does not teach or suggest all the limitations of amended Claim 22. For example, Claim 22 recites, among other things, that the air intake system is arranged to supply air to the engine for combustion and at least a portion of the air cleaner is positioned between the seat assemblies. In contrast to Claim 22, Nakamura discloses a cooling air system that delivers cooling air to a belt-type variable transmission, *not to an engine*.

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Additionally, Nakamura does not teach or suggest that at least a portion of the air cleaner is positioned between seat assemblies. Assuming *arguendo* that the Nakamura vehicle can be modified with the seats of Hamm, the induction box 41 cited by the examiner would not be positioned between the seats. The induction box 41 of Nakamura is positioned at the *front end* of the vehicle of Nakamura. Thus, Nakamura does not teach or suggest each and every limitation of Claim 22.

Hamm does not teach or suggest the deficiencies of Nakamura. For example, Hamm does not teach or suggest, among other things, that an air intake system is arranged to supply air to the engine for combustion. Thus, the cited references, either individually or in combination, do not teach or suggest the unique combination of limitations recited by amended Claim 22.

Dependant Claims 23-31 are patentably distinguished over the cited references for at least the reasons with respect to Claim 22 as well as for novel and nonobvious features recited therein. Thus, Claims 22-31 are in condition for allowance.

Additionally, dependent Claims 5, 13, and 14 are allowable as depending from allowable base claims, as well as for novel and non-obvious combination of elements recited therein. For example, Claim 5 recites at least two seat assemblies disposed side by side on the frame, the air inlet positioned between the seat assemblies in a top plan view of the vehicle. Nakamura and Hamm, either individually or in combination, do not teach or suggest the unique combination of limitations recited by Claim 5.

#### **New Claims**

Claims 32-36 have been added. These claims are fully supported by the application as filed. Accordingly, no new matter has been added by this amendment. Consideration of new Claims 32-36 is respectfully requested.

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**Conclusion**

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

Any remarks in support of patentability of one claim should not be imputed to any other claim, even if similar terminology is used. Any remarks referring to only a portion of a claim should not be understood to base patentability on solely that portion; rather, patentability must rest on each claim taken as a whole. Applicants have not presented arguments concerning whether the applied references can be properly combined in view of the clearly missing elements noted above, and Applicants reserve the right to later contest whether a proper motivation and suggestion exists to combine these references.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicants' attorney in order to resolve such issue promptly.

Respectfully submitted,

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